

Remarks/Arguments

Claims 1, and 3-17 remain.

The Applicants have extensively modified the claimset from that originally offered to the Examiner for evaluation. In view of the Applicants' extensively modified claimset and further in view of the Applicants' exhaustive review of the prior art citations by the Examiner, the Applicants' must respectfully disagree with the Examiner's rejection basis, findings and conclusions.

Specifically, the Applicants note that the Examiner has rejected under 35 U.S.C. §102(a) Claims 1-8, 8-9, 11-15, and 17 as anticipated by MassPike Fast Lane Program. The Applicants further acknowledges the Examiner's rejection of Claims 18-22 under 35 U.S.C. 102(a) as anticipated by *Hassett, et al*, U.S. Patent No. 5,144,553 hereinafter referred to as (the '553 Patent.) With respect to the Examiner's Claim rejections under 35 U.S.C. §103, the Applicants additionally note the Examiner's rejection of Claims 6-7 and 10 under 35 U.S.C. §103(a) as being unpatentable over MassPikes Fast Lane Program.

Having exhaustively reviewed the Examiner's citations and basis for the above-noted Claim rejections, the Applicants respectfully offer the following discussion to address the Examiner's previous rejections and earnestly proposes to distinguish and clarify the art enhancing features of the instant invention versus those proffered by MassPike and the '553 references.

The Applicants would first suggest the Examiner's rejection of Claims 1-5, 8-9, 11-15 and 17 under 35 U.S.C. 102(a) might be attributed to a lack of understanding with respect to the instant invention's art enhancing features versus those of the MassPike reference. Succinctly stated, the instant invention reflects a system and method by which toll charges accrued by a plurality of individual drivers using a leased/rented vehicle over a period of time, may be identified and subsequently billed back to the user of the vehicle. (i.e., vehicle passing a toll station). It is not an automated fast lane toll charging system as indicated in the Examiner's

reference in point 5, referring the Applicants to MassPike page 1, sections 1-2; page 3, 6, sections 2-3; page 7, section 1; and page 12 section 1.

To further assist the Examiner, the Applicants would suggest the invention can be accurately viewed as a brokering or intermediate method by which one party secures a number of tags and associates those tags with multiple second parties (vehicle rental agencies, etc.) Those vehicle rental agencies associate (physically attach a tag to a vehicle). That vehicle is subsequently rented to a plurality of drivers over various periods of time. When the vehicle incurs a toll related charge, the instant invention relates the time of the charge to the driver of the vehicle at the time of charge occurrence, and bills the specific driver of the vehicle at the time the charge was incurred for the charge. Information is garnered, collated and processed by the instant invention using a variety of data record means most specifically toll charge recordation charges from a toll related authority and driver rental/leasing records from a rental agency. Reconciling the times of the charges with the driver of the vehicle at the time the charge occurs allows the instant invention to accurately process any associated fees with the toll tags it has entrusted to (the invention process) to the rental/leasing agency. Hence, it is the instant invention's procuring of the tags, assigning one or more tags to one or more car leasing agencies, associating one tag with one of many vehicles and tracking vehicle usage by driver over a interval of time over which one or more toll charges may have been occurred.

Succinctly stated, the Applicant's reading of the MassPike reference as provided by the Examiner fails to disclose any such capability. Perhaps stated more clearly the (MassPike) toll authority capability allows tracking of a tag but is incapable of determining who was driving the vehicle at the time of toll occurrence. The MassPike reference would appear to relate a specific owner with a specific tag as distinguished from the instant invention where multiple owners with multiple accounts can use a single tag (multiple owners relating to multiple drivers of the leased vehicle).

The Applicant would respectfully point to Claim 1(b) whereupon the instant invention would allow and provide for the capability where a single tag may be applied to various vehicles and the means by which charging the drivers of those vehicles during a period of charge

occurrence may be accommodated. In the Applicants reading of MassPike this system is only capable of associating charging one entity for each tag. It would appear to the Applicants that MassPike, and systems similar to MassPike, would be intended to facilitate charges back to those situations where two cars occur in one household, as opposed to the instant invention which allows for multiple users to use multiple vehicles over diverse periods of time with accurate charge allocation going to the driver of a vehicle at the time of charge occurrence. The instant invention tracks and charges the driver of a vehicle incurring a toll charge. MassPike would appear to be limited to those situations where one toll tag may be manipulated between various vehicles. Under MassPike the owner of the tag (not the driver of the vehicle) would be charged for the usage.

Given the Applicants' extensively modified Claim set, the above-noted discussion with respect to Claim 1 (from which 1-17 depend) the Applicants would urge the Examiner's attention to the distinguishable differences and processing capabilities of the instant invention from the MassPike toll tag reference.

The Applicants further acknowledge the Examiners' rejection of Claims 6-7 and 10 of the 35 U.S.C. §103(a). As for Claim 6, the Examiner's comment on page 12 acknowledges that MassPike's Fast Lane Program does not expressly disclose driver information for each period of vehicle utilization. This is specifically the point extensively made in the above-noted discussion. Notice is taken of the Examiner's comment that logs may be kept by commercial fleet owners denoting the driver of the vehicle on a particular day. Unlike "paper log" reconciliation, reconciliation is provided by the automated means of the instant invention via the automated garnering information from a rental agency/commercial fleet owner with data records generated by the toll charging authority.

The Examiner's statement regarding the obviousness to one of ordinary skill in the art at a time when the invention to associate a specific tag of commercial vehicle of MassPike Fast Lane Program with a specific driver has been earnestly entertained. However, Applicant respectfully finds this basis lacking. Specifically, the MassPike reference is absent any disclosure, discussion or Claim that would teach the manner in which a commercial corporation would have to revamp

their computer systems to facilitate the instant invention. Further, the practice of instant invention would allow tracking from various toll authorities and provide a single accounting for a specific driver at a time of toll charge occurrence. The Applicants respectfully find any such discussion of capability absent in the Examiner's rejection reasoning.

Applicants respectfully disagree with the Examiner's rejection of the aforementioned Claims under 35 U.S.C. §103(a). Specifically, the combination of references, taken together, does not disclose the limitations of Claims 10 and 18. Moreover, there is no teaching, suggestion, or disclosure that would support the combination of references in the manner suggested by the Examiner. Absent some suggestion or motivation supporting the combination of references, the references may not properly be combined. The mere fact that references can be combined or modified does not render the resulting combination obvious unless the prior art suggests the desirability of the combination. MPEP §2143.01 (Emphasis in ORIGINAL). Further, it is necessary for the Examiner to set forth evidence that one of ordinary skill in the art would have been led to combine the teaching of the applied references.

Since the Examiner has not identified, explicitly or inherently, each and every feature Claimed in independent Claim 1, the rejections of independent Claim 1, along with the rejections of associated dependent Claims 2-17, under 35 U.S.C. §102(b) must be withdrawn.

No new matter has been added. Applicants respectfully submit that the Claims as they now stand are patentably distinct over the art cited during the prosecution thereof.

With the addition of no new Claims, no additional filing fees are due. However, Applicants respectfully request a One (1) Month Extension of Time to File this Response up to and including December 19, 2004. Enclosed with this report is Form PTO/SB/22 with Extension Fees in the amount of \$60.00 as reflected on the PTO/SB/17 Fee Transmittal. The Director is hereby authorized to charge any fees other than an issue fee or credit any overpayment to Deposit Account Number 23-2426 of WINSTEAD SECHREST & MINICK P.C.

If the Examiner has any questions or comments concerning this paper or the present application in general, the Examiner is invited to call the undersigned at (214) 745-5710.

Respectfully submitted,

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